

SHASTA COUNTY DEPARTMENT OF AGRICULTURE
PESTICIDE USE ENFORCEMENT WORKPLAN
2011-2013

I. County Resources

Staff

The Shasta County Department of Agriculture typically allocates 17% of its staff hours annually to the Pesticide Use Enforcement program. The Staff Classifications that dedicate hours to the program include:

- Deputy Agricultural Commissioner/Sealer,
- Agricultural & Standards Investigator III (three positions),
- Agricultural & Standards Investigator I (two positions),
- Agricultural & Standards Program Associate,
- Agricultural & Program Assistant,
- Agency Staff Services Analyst II,
- Administrative Secretary, and
- Typist Clerk II

Training

Shasta County takes advantage of the investigative training provided by DPR. This includes the written policies and procedures provided in the manuals developed by DPR. Such written materials include:

- Pesticide Episode Investigation Procedures Manual.
- Pesticide Enforcement Investigative Sampling Manual.

Continued training opportunities for new, as well as experienced, Investigators are encouraged and supported by the department. All professional staff attend the annual in-house Permit Issuance Training and various industry-sponsored trainings held in the area including; the PAPA Conferences, Vegetation Management workshops, and PCOC Safety Day.

Strengths

- All Investigators possess Pesticide Use Enforcement license and have an average of 8 years field experience.
- Investigator position that was vacated in January 2009, was filled in April 2010. The Investigator recently obtained the Pesticide Use Enforcement license. He continues to receive basic program training and was able to attend the structural training held in Dublin in 2010.

Weaknesses

- Limited foreign language ability, including Spanish and Mien.
- Administrative office with limited experience.

Goals

- To train support staff on all pesticide regulatory activities including data entry of use reports, notices of intent, tickler files, etc.
- To increase outreach of pest control businesses, and their employees, to increase compliance with laws and regulations.

II. Restricted Materials Permitting

A. Permit Evaluation and Issuance

Background

Permits for restricted materials (RMs) are issued to the operator of the property to be treated or the operator's designated representative. The permittee or the designated representative, as required in California Code of Regulations (CCR3) Section 6420, signs the permit. A letter of authorization is required for issuance or signature of other than the operator of the property. The permits are generally issued for a period of no more than one year, and typically expire on December 31st in the year of issuance. The permits are issued in a format approved by the Department of Pesticide Regulation (DPR).

Permits undergo a thorough evaluation at the time of issuance. The permit is reviewed in an effort to determine if there are safety concerns, such as the proximity to sensitive sites, or if substantial adverse environmental impacts could occur. This evaluation is aided by the use of various tools including information obtained from the permit applicant, staff's knowledge of the application sites, potential impacts of the restricted materials (RM), and the use of GIS in the permitting process. Using these tools, if a feasible alternative is available it is considered in lieu of the requested RM. A permit is ultimately issued with conditions or denied based upon materials requested by the permittee, the local environment (including the location of sensitive sites), the compliance history of the applicant, and the comprehensive review by licensed staff. If a permit is denied, the applicant is given due process in the form of a notice and an opportunity to be heard.

If alternatives to a RM are not identified, mitigation measures referred to as permit conditions are incorporated into the final permit. The Shasta County Department of Agriculture (SDA) has developed a standard restricted materials permit condition sheet that is completed for every permit applicant. The condition sheet outlines general precautionary steps to take when using pesticides. It also includes several specific conditions that apply only to certain categories of pesticides, such as insecticides, and

are included on permits listing those types of materials. Several pesticides identified as those of particular concern, such as acrolein, have their own unique condition sheet that outlines mitigating measures that applicators must abide by.

Staff Investigators may also incorporate additional mitigation measures or conditions based on the particular request. These additional requirements can be based on knowledge of local environmental features, settings or site conditions, pest management guidelines, knowledge of restricted materials, pesticide information series, application method, or other regulatory requirements.

As required by both regulation and SDA permit conditions, a Notice of Intent (NOI) is to be submitted 24-hours before the application of any restricted material takes place. The NOI may be submitted by phone, fax, or in person, and is recorded on the Shasta County NOI log. Appropriately licensed staff review the NOI and either accept or deny its approval. If it is not approved, staff are required to contact the permittee to notify them of its denial or to obtain additional information to reconsider the denial. Each NOI must be reviewed and initialed by the licensed staff to verify that it has been approved and is in compliance with all applicable requirements.

NOIs submitted less than 24-hours prior to the intended start of application may be approved, on a case by case basis, by the Agricultural Commissioner or appropriately licensed staff, when it is determined that due to the nature of the commodity or pest problem, effective control cannot be obtained if the 24 hour period is not waived or it is determined that a 24-hour notice is not necessary to adequately evaluate the intended application.

The following handouts may be reviewed with permittee at time of permit issuance:

- In-house pesticide use requirements
- DPR pesticide use requirements PR-ENF-116
- PUR form and instructions
- Restricted material permit conditions
- Notice of intent log and instructions
- California restricted materials list
- In-house WPS highlights brochure
- In-house handler training brochure
- In-house fieldworker training brochure
- Application specific information requirements
- PSIS A or N 1-11

The Department is actively involved in the process of implementing the new Pesticide Permitting and Use Report system (PPUR) being developed in conjunction with CACASA, DPR, and ENVIRON. Staff has been involved in providing feedback to Environ on various aspects of the system. As the process moves toward implementation, Shasta will continue to actively participate in the process.

Goal

The goal of the SDA is to comply with all requirements applicable to the issuance of RM permits in order to ensure their proper and prompt issuance to pesticide users and to ensure the safety and protection of Shasta County's citizens and environment.

Deliverables

- Comply with all laws, regulations, and Department of Pesticide Regulation (DPR) policies and guidelines for issuing RM permits.
- Incorporate GIS component in RM permits, including field boundary map for all permitted sites through the implementation of the PPUR.
- Have only properly licensed staff issue RM permits.
- Evaluate every RM permit for compliance with all applicable requirements.
- During the RM Permit evaluation process identify all sensitive sites that could be affected by the use of pesticides.
- Condition all RM permits with applicable mitigation measures.
- Document the issuance or denial of all RM permits on county log.
- Record all NOIs.
- Have licensed staff approve, modify, or deny all NOIs.
- Provide permit issuance training to all licensed PUE staff.
- Deputy will conduct periodic, random reviews of RM permits throughout the year to assure that the SDA and DPR quality requirements are being met. Any identified deficiencies will be noted, reviewed with staff, and general problems will be discussed during staff training.

Strengths of the Program

- Three of the five staff members who issue RM permits have in excess of eight years of experience in issuing permits.
- Permit maps are generated using GIS data versus hand-drawn maps of previous years.
- Permits for fumigants are only issued by the lead PUE Program Investigator or the Deputy.
- Evaluate permits to ensure that operators remove any restricted materials from their permit that will not be used or stored in the current year.
- All field sites are digitized in the AgGIS program.

- Permit denials are documented.

Weaknesses of the Program

The development of site maps is labor intensive and time consuming.

Measures of Success

The success of the Shasta County Department of Agriculture's RM permitting process will be documented by the review of RM permits listed above. Each permit will be reviewed for requirements, including but not limited to: map quality/ accuracy, certification status (current PAC application on file), site evaluation, general and specific permit conditions forms signed. In addition, an external evaluation is conducted annually by the Enforcement Branch Liaison (EBL). This evaluation may include a review of RM permits, Pesticide Regulatory Activities Monthly Report (PRAMAR) data, and the NOI log. The SDA Deputy will review and discuss the evaluation with the EBL and then review the evaluation with the Agricultural Commissioner prior to discussing it with SDA PUE staff.

III. Site Monitoring Plan

Background

Licensed staff will monitor RM permits and NOIs as required in CCR Section 6436. A minimum of five-percent of the NOIs received by the SDA will be monitored. Monitoring will include a review of all NOIs received to determine which fields should be checked prior to application. Consideration will be given to those NOIs for highly toxic materials, especially fumigants, environmental concerns such as endangered species and groundwater issues, safety issues such as proximity to schools or other sensitive sites, and Section-18 applications, etc.

The compliance history of the applicant will also be considered. Permittees with documented non-compliance(s) on inspection reports in the previous year will be monitored with greater frequency. Copies of all inspections and compliance actions will be maintained in the permittee's files and will be used by staff to evaluate the need for increased monitoring.

All non-agriculture permit holders are to be inspected at least once a year if they apply pesticides.

The department receives pesticide use reports from growers and businesses online. In 2009-2010, over 40% of the monthly summary use reports were submitted electronically.

Goal

The goal of site monitoring is to examine sites scheduled to be treated in an effort to determine compliance with applicable laws and regulations and site-specific permit

conditions. The prioritization of the site inspections must take into consideration the circumstances of the application. Those circumstances include, but are not limited to, the toxicity of the material, the application location, local environmental conditions surrounding the site, safety considerations, and the applicator's compliance history. Of the 41 pre-application inspections performed during FY 09-10, 33 (80%) were for materials with a DANGER signal work on the label.

The goal for electronic use report submission is to have 75% of the use reported by growers and businesses submitted on-line.

Deliverables

- Perform pre-application site inspections on a minimum of 5% of the NOIs submitted.
- Each calendar year develop and maintain a list of permittees who have recorded non-compliances related to RM use in the previous year in order to help staff prioritize inspections.
- Prioritize inspections based on the following criteria:
 - Methyl bromide NOIs receive the highest priority;
 - Pre-application site inspections are to be performed on all RM applications adjacent to a school site;
 - Pre-application site inspections will be performed on at least 50% of the permittees who are listed as having a RM related non-compliance during the course of the last year;
 - Pre-application site inspections will be performed throughout the county in order to assure that all types of RM applications are adequately monitored.
- Perform outreach to enable and encourage pesticide users to submit pesticide use reports electronically.

Strengths of the Program

- Department's RMMS program is utilized to assess surrounding sites.
- Pre-application inspections are and will continue to be conducted on all agricultural fumigations.
- Lead PUE Investigator or Deputy reviews Methyl Bromide worksite plans.
- Pre-application inspections are performed on over 5% of the NOIs received by the Department.
- Non-ag permittees required to submit NOI's until an application inspection is completed.

Weaknesses of the Program

Majority of restricted material applications are performed in Intermountain area, approximately 70 miles from the Department.

While the vacant Investigator position has been filled, it will take several years to train the individual in all aspects of the Pesticide Use program requirements.

Measures of Success

Success will be achieved by meeting the requirement to conduct pre-application site inspections on at least 5% of the NOIs received and verifying that the prioritization of inspections was implemented. Success will also be based on verifying that inspections were carried out in all areas of the county on a wide variety of crops and on farms and ranches of all sizes. Further success will be determined by a fully staffed front office with data entry no more than 30-days in arrears.

Each year the department should increase the percent of pesticide user reports submitted electronically, to reach the goal of 75%.

IV. Compliance Monitoring

Background

The department's Pesticide Regulatory Inspection reports, completed in FY 2009-2010, were reviewed in an effort to determine the overall compliance rate and to identify any areas where non-compliances were consistently documented.

Number of Pesticide Regulatory Inspections completed, by type

	Fumigations	Mix Load	Applications	Records	HQ/ Employee	FWS	TOTAL
Total Goal	10	16	82	23	46	5	182
Total Completed	10	24	83	26	52	5	200
Percent of Goal	100%	150%	101%	113 %	113%	100%	110%

Goal

The goal of the SDA's pesticide regulatory program is to maintain the high compliance rate in those areas of exceptional compliance and to increase the rate of compliance in all other areas, but especially in the Pest Control Business application inspections and Grower/Property Operator Headquarter Inspections.

Deliverables

- Eighty pesticide use monitoring inspections on growers, government agencies, and pest control businesses (including agricultural, aerial, structural, maintenance gardeners, and non-agriculture restricted materials inspections) with an emphasis on pest control businesses and fifteen mix/load inspections.
- Ten fumigation inspections including a mix of structural, field and commodity fumigations, as they are available.
- Thirty five Headquarter audits for growers, government agencies, and pest control businesses.
- Twenty business record audits.
- Increase the number of Pesticide Use Monitoring inspections of pest control businesses to 34.
- Decrease the number of Pesticide Use Monitoring inspections of grower/property operators to 30.
- Maintain the level of inspection for other inspections to the level completed in FY06-07. The figures may change during the course of the Workplan depending on the types of applications that actually take place, staffing shortages, or emergency situations.
- Conduct agricultural and urban application inspections during non-business hours and weekends by scheduling staff to perform surveillance patrols during these times.
- Modify all applicable training provided by the department to emphasize the areas of greatest non-compliance.
- Evaluate all inspection reports for compliance and develop and maintain spreadsheets recording all code sections violated.
- Use these records annually to modify and direct training into those areas that have generated the greatest number of violations and/or the most serious violations.

Strengths of the Program

- Inspections are thorough and complete.
- Field application inspections are the result of surveillance activities or random sightings, not of scheduled or preplanned inspections. The only scheduled inspections are the HQ/Business records, Dealers or Advisors inspections.
- Follow up inspections are tracked and completed in a timely manner.
- Staff attends and makes presentations at annual pesticide training events for growers, PCOs with employees, structural PCOs with employees.

Weaknesses of the Program

- No one on staff is fluent in Spanish or Mien, the predominant non-english language of agricultural field workers in the county.
- Majority of pesticide applications are made in the Intermountain area, approximately 70 miles from the Department; requiring extensive travel time for surveillance, inspections, and service to permittees.
- Many applications occur during the peak permit issuance period.
- Limited weekend and after-hours staffing.
- Anecdotal information indicates there are numerous unlicensed maintenance gardeners working in the county.

Measures of Success

SDA will continue to address non-compliances through our education and outreach activities to those industries that are experiencing the violations; specifically the Pest Control Businesses. The success of the SDA's Compliance Inspection Plan will be determined by several measures, including the completion of the inspection plan contained in the Deliverables Section above, focusing training on the areas that produce the most non-compliances, and in decreasing the number of non-compliances in the areas with the lowest compliance rates, PCB application inspections and Grower/Property Operator Headquarter Inspections.

In the event of an inspection involving persons who do not speak English or speak English as a second language, the Department works with Spanish and Mien translators in the Public Health Department and has access to translation services through Shasta County's Support Services Department.

The numbers of inspections listed in the Compliance Inspection Plan are tracked on a monthly basis and may be modified, depending upon the number of non-compliances documented or the enforcement actions taken for violations in accordance with the Enforcement Response Policy/Regulations.

V. Investigation Response and Reporting

Background

During FY 09-10 the Shasta County Department of Agriculture received 5 investigation notifications from DPR and 1 citizen complaints. None of the notifications were priority investigations. All of the investigations were completed and the accompanying report submitted to DPR within the 120-day deadline.

Goal

The goal of the program is to complete all investigations in a timely manner with accurate, complete, and supportive information in conformance with all applicable policies, procedures, and guidelines.

Deliverables

- Initiation and completion of all Priority Investigations in a timely manner.
 - Begin a Priority Investigations within two working days of receiving notification.
 - Request assistance from DPR staff on Priority Investigations when appropriate.
 - Submit preliminary update on Priority Investigations to DPR within fifteen days.
 - Complete and submit a Final Priority Investigation Report to DPR within 120 days, or request an extension in writing.
- Follow procedures as outlined in Investigation Procedure Manual
- Take appropriate Compliance or Enforcement Action, as required by Enforcement Response Policy/Regulations.
- Provide investigation training to all new professional staff.
- Provide ongoing training to all pesticide regulatory staff and include new requirements such as the recently adopted Pesticide Enforcement Response Plan, SB 391 requirements including the SDA's responsibility for timely responses to complaints and illness investigations.

Strengths of the Program

- Four of the six staff members who are licensed to investigate pesticide incidents/illnesses/complaints have in excess of seven years of experience in pesticide program work.
- Investigations are timely, thorough, and complete.

Weaknesses of the Program

No one on staff is fluent in Spanish or Mien which are the predominant non-english speaking languages of agricultural field workers in Shasta County.

Measures of Success

Success will be measured by the timeliness of submission of priority investigations and DPR's annual evaluation by the EBL. The SDA Deputy and staff will discuss with the DPR EBL, on an annual basis and all Priority Investigations and Enforcement and/or Compliance Actions taken by SDA. Periodic review of all investigations and actions by SDA staff will be completed to assure timelines are met and reports and investigations are complete.

Success will also be measured by completion of all priority investigations within 60-days of the date of the priority incident or when Shasta County Department of Agriculture was notified of the incident, unless statutory changes require a different timeline. All non-priority investigations are to be completed within 120-days. The number of returned or incomplete investigations will also show a direct correlation to the success of this program.

In the event of an investigation involving persons who do not speak English or speak English as a second language, the Department works with Spanish and Mien translators in the Public Health Department and has access to translation services through Shasta County's Support Services Department.

VI. Enforcement Response Evaluation

Background

The Deputy Agricultural Commissioner reviews all inspection and investigation reports. Those that contain a non-compliance are assessed to determine if additional action is warranted. If the Deputy determines that such action is needed, he will meet with the Investigator and determine a preliminary course of action based on the pending enforcement response regulations and other applicable policies or requirements. Each inspection and investigation is considered for progressive action as outlined in the enforcement response regulations, the Department's NOPA Resource book, etc.

If the matrix determines that a Compliance Action is warranted, the decision to take that level of action is made by the Deputy Commissioner. If enforcement action is warranted, the final decision to take action is made by the Agricultural Commissioner.

During the analysis period, the inspection or investigation is thoroughly reviewed to ensure that adequate evidence is present to prove all elements of any cited violations. If the evidence is insufficient to determine a course of action, the case is returned to the Investigator for further investigation or if adequate evidence is not available the case is closed.

Before being issued, compliance actions such as warning letters and documented compliance interviews are generally written by an Investigator and reviewed by the Deputy Commissioner. The Deputy Commissioner is responsible for the development of enforcement actions with substantial input by the primary Investigator. If an Enforcement Action is recommended, it is forwarded to the Agricultural Commissioner for review and approval.

When an Administrative Civil Penalty is taken the fine guidelines are followed or any other applicable statute or regulation, as are the timelines for due process. (CCR3 Section 6130 or Title 16 Section 1922)

Compliance and enforcement actions are to be completed and submitted to the Deputy for review as outlined in the timetable listed in the "Deliverables" section below. In most cases, actions should be delivered to the respondent with 45-days of the inspection or completion of the investigation.

Goals

The goal of the Enforcement Response plan is to complete a thorough investigation and provide an appropriate response in a timely manner, which will result in future compliance by the respondent. The actions must be consistent with DPR guidelines, be uniformly applied, and fairly enforced to maintain the confidence of the regulated industry and the public.

Deliverables

- Consideration of all appropriate enforcement options
 - Proper application of the Enforcement Response regulations and future regulations.
 - Use of NOPA Resource Book.
 - Proper application of Fine Guidelines.
- Cases, especially those "rejected" for further action, will be reviewed with pesticide regulatory staff during training sessions.

Strengths of the Program

- Fifty percent of professional staff have experience in developing Enforcement Action and writing Notices of Proposed Actions. Three staff members have served as a Hearing Officer or Advocate.
- A template was developed streamline the process for the more common types of Notice of Proposed Actions.

Weaknesses of the Program

- Enforcement Actions tend to get bottlenecked in the review portion of the system.

Measures of Success

Success can be measured by the adherence to the enforcement response timetable on the previous page.

VII. Additional Activities

Outreach and Education

The Shasta County Department of Agriculture strives to ensure that the regulated community is informed of and understands the compliance standards as they relate to the use of pesticides. Towards this end, outreach and education activities remain fundamental elements of Shasta County's pesticide enforcement program. The Department will continue to provide and participate in ongoing training and take advantage of new opportunities as they become available.

The department will continue to prepare and distribute information and training to four distinct industry segments; school districts, structural pest control businesses, pest control operators, and growers. The department will continue to maintain their distribution list which includes the target audience, other counties, and the Department of Pesticide Regulation.

The department sponsors and conducts multiple training seminars for growers and licensees. To ensure information reaches targeted communities, the Department has worked with Spanish and Mien translators in the Public Health Department. Department Investigators and management staff also participate as presenters at training opportunities sponsored by industry and other governmental agencies. The Department will build off the program developed by San Luis Obispo County to educate the pest control business community and make all commercial pesticide users aware and compliant with the laws and regulations.

Shasta County employs a robust registration/notification process. Beginning in November of each year, notification letters are sent out to all of the previous year's registration holders. An application for the upcoming calendar year is enclosed to facilitate the registration/notification process. Shasta County usually begins accepting registration for the next calendar year during the month of December.